

Who Sets Town Hall Hours

Town hall hours can mean the hours during the day and week that town hall offices are open to the public or the number of hours for which a town employee is paid and expected to work. They aren't necessarily the same but, in both instances, the question arises: Who makes these decisions?

An employee customarily includes any full or part-time person, elected or appointed, who receives town compensation in exchange for services, including those with small annual stipends, under personal service contracts or paid from grants.

Guidance on setting employee hours is found in the language of M.G.L. c.40, §21A. It authorizes a town by by-law and a city by ordinance to establish the total hours, days and weeks of work for all non-school employees, including elected officials. It also states that an ordinance is subject to the provisions of a city charter. Under the rule of pre-emption, neither will a bylaw stand if conflicts with a local charter. And, both a bylaw and ordinance will also fail if they conflict with the provisions of a special act, general law or the State Constitution. Therefore, it follows that a municipality can set hours of work for employees through a charter provision or special act, as well as a bylaw or ordinance.

Section 21A does not refer to office hours. However, because state law is silent on the subject, it is deemed within the inherent power of municipalities and is an area where cities and towns can legislate. Therefore, a bylaw or ordinance, charter provision or special act can set city or town hall office hours or can authorize the board of selectmen or mayor to set the hours.

In the absence of a bylaw or ordinance, charter or special act provision, elected officials are expected to work the minimum number of hours contemplated by their total compensation, but otherwise have discretion to determine their work schedule. Non-elected employees are bound by the classification schedule and compensation plan, personnel bylaw or ordinance, or to a collective bargaining agreement.

While relatively straight forward, unanswered questions compel prudent decision making at the local level. For instance, what happens when city or town hall office hours and employee work hours do not correspond? What are the consequences when a bylaw sets town hall office hours that exceed an employee's assigned hours or increases the work hours for a position without a corresponding increase in compensation?

City hall hours are typically full-time. In small towns, where government is predominantly part-time, there are two views on town hall hours. One is that the public is better served when local officials' office hours are spread out and town hall is then open more hours during the week. An alternative

view is that municipal government functions more effectively and efficiently when all department heads, and particularly finance officials, are in the building at the same time. Residents benefit when they can avoid multiple trips to town hall.

In any event, before embarking on a course to set employee hours, it is wise to understand respective rights and obligations found in union contracts, personnel bylaws and ordinances, and in personnel policies. The advice of legal counsel should always be sought.